

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

MICHAEL AHART, Individually and on
Behalf of his minor daughter ALEXIS AHART

CIVIL ACTION NO.: 6:13-cv-02787

VERSUS

JUDGE - RICHARD T. HAIK, SR.

PAUL MOUTON as the duly elected
City Marshal of the City of Opelousas and
Deputy Marshal FRANK ANGELLE,
Individually, and in his capacity as Deputy
Marshal for the City of Opelousas

MAGISTRATE - PATRICK J. HANNA

STATEMENT OF UNCONTROVERTED FACTS

In accordance with Federal Rule of Civil Procedure 56(c), Defendants, FRANK ANGELLE and PAUL MOUTON respectfully represent that there is no genuine fact to be tried with respect to the following material facts:

1. In August 2013 Plaintiff Michael Ahart, his wife Holly, and their four children, including Alexis Ahart, were residing with Michael Ahart's mother, Cynthia Ahart, in her home located at 522 East North Street in Opelousas, Louisiana. [Deposition of Alexis Ahart, p. 17, excerpts attached as Exhibit A; Deposition of Michael Ahart, p. 36, excerpts attached as Exhibit B].
2. Alexis Ahart admits to "having differences" with and engaging in arguments with her grandmother while living in the home. [Alexis Ahart depo., pp. 24-25, Ex. A]. Michael Ahart's wife Holly was not even on speaking terms with Cynthia Ahart during the time they lived together. Alexis would step out of the room when her parents argued with her grandmother. [Alexis Ahart depo., pp. 26-28, Ex. A]. Additionally, Michael Ahart

concedes that he has raised his voice in a verbal exchange with his mother when they “disagreed across the yard.” [Michael Ahart depo, pp. 43-44, Ex.B].

3. On or about August 20, 2013 Cynthia Ahart, Michael Ahart’s mother went to the Opelousas City Marshal’s Office seeking to have her son, Michael Ahart served with a Notice of Eviction. At that time Mrs. Cynthia Ahart advised City Marshal Paul Mouton and Deputy Marshal Angelle that her son and his family had been abusing her. She stated that her grandchildren would throw food at her and spit on her. City Marshal Mouton assisted Mrs. Ahart with filling out a Notice To Vacate, and assigned Deputy Marshal Frank Angelle to serve the Notice. [Deposition of Frank Angelle, pp. 15-16, Excerpts attached as Exhibit C; Deposition of Paul Mouton, p. 29, excerpts attached as Exhibit D].
4. On or about August 21 or August 22, 2013 -- shortly after Michael Ahart was served with the Notice to Vacate -- his mother Cynthia Ahart returned to the Opelousas City Marshal’s Office to request that a deputy escort her to her home to retrieve some of her clothing from the residence because she was afraid to be in the house alone with her son, daughter-in-law, and grandchildren. At that time Mrs. Cynthia Ahart appeared visibly distraught. She advised Mouton and Angelle that her daughter-in-law had taken her cell phone for purposes of destroying photographs which Mrs. Ahart had taken to document damage caused to the home by her son and his family, and which she intended to offer as evidence in eviction proceedings. Mrs. Ahart asked the Marshal to send a deputy with her to her home to ensure her safety while she packed some belongings for purposes of sleeping away from the house, in a hotel, while Michael Ahart and his family moved out of the residence. Therefore, City Marshal Mouton assigned Deputy Angelle to escort

Mrs. Ahart to her home to gather some belongings. [Angelle depo., p. 17, Ex. C; Mouton depo., pp. 29-30, 33-34, Ex. D].

5. Upon their arrival at the residence, Mrs. Cynthia Ahart opened the door with her key and Deputy Angelle entered the home with her. [Angelle depo., p. 18, Ex. C]. Mrs. Ahart also requested that Deputy Angelle take photographs of certain parts of the home since the pictures Mrs. Ahart had taken to present at City Court eviction proceedings were reportedly deleted by her daughter-in-law. Cynthia Ahart then guided Deputy Angelle to those areas of the house she wanted photographed and identified the areas for him. Deputy Angelle took photographs of the referenced areas from the hallway without entering individual rooms of the house. [Angelle depo., pp. 20-21, Ex. C; Affidavit of Officer Herbert Levier with attachments, including witness statement of Cynthia Ahart, attached as Exhibit E]. Deputy Angelle did not move or manipulate any objects or property contained in the house. [Angelle depo., pp. 18-19, Ex. C].
6. At some point while in the home, Deputy Angelle encountered Michael Ahart's then sixteen-year-old daughter, who approached him while holding her cell phone. When he inquired what she was doing, Alexis stated that she was recording video of him to upload to YouTube. Deputy Angelle then directed Alexis Ahart to delete the footage of him since she had not obtained his permission to record him. At that point, Alexis Ahart walked over to Deputy Angelle and offered to allow him to delete the video from her phone. However, Deputy Angelle declined since he did not know how to operate Alexis Ahart's particular mobile device. Therefore, Alexis proceeded to delete the video from her own phone while Deputy Angelle watched. Once the video was deleted, Alexis Ahart walked away and called her father, Michael Ahart from her cell phone. Deputy Angelle

never engaged in any verbal or physical altercation with Alexis Ahart. The deputy had no physical contact whatsoever with Alexis Ahart while at the Ahart residence. [Angelle depo., pp. 20-24, Ex. C; Levier Affidavit with attached witness statement of Cynthia Ahart, Ex. E].

7. Once Mrs. Cynthia Ahart had packed sufficient clothing and provisions to last the duration of her stay away from the home, Deputy Angelle helped her carry her suitcase out of the house. Cynthia Ahart then used her key to lock the door behind them. [Levier Affidavit with attached witness statement of Cynthia Ahart, Ex. E].
8. After Cynthia Ahart and Deputy Angelle left the house, Michael Ahart lodged a complaint with the Opelousas Police Department alleging that Deputy Angelle had illegally entered and searched his home. Michael Ahart also claimed that Angelle verbally and physically/sexually assaulted his daughter Alexis Ahart. [Levier Affidavit with attachments, including statements of Michael and Alexis Ahart, Ex. E].
9. Officer Hebert Levier of the Opelousas Police Department was assigned to the investigation of Michael and Alexis Ahart's allegations against Deputy Angelle. In the course of said investigation, Officer Levier conducted interviews of and obtained written statements from all involved parties. Officer Levier questioned Deputy Angelle on at least three occasions with respect to the claims made by Michael Ahart and his daughter. The witness statement Officer Levier obtained from Cynthia Ahart corroborated Deputy Angelle's version of events. Officer Levier's narrative report makes no mention of visible signs of injury on Alexis Ahart's person. Ultimately, based upon the evidence and outcome of his investigation, Officer Levier determined that Deputy Angelle did not commit a crime while at the Ahart residence. Therefore, the Opelousas Police

Department did not pursue any criminal charges against Angelle in connection with Michael and Alexis Ahart's complaint. [Levier Affidavit, with attachments, including officer narrative report, Ex. E].

Respectfully Submitted:

ALLEN & GOOCH
A Law Corporation

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Individually, and In His Capacity as Deputy
Marshal of the City of Opelousas

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all listed counsel of record by operation of the court's electronic filing system.

Signed this ____ day of April, 2015.

/s/ Desiree W. Auzenne
DESIREE W. AUZENNE (#30978)